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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,889

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Junbiao Zhang

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09/04/2009

Thomson Licensing LLC

P.O. Box 5312

Two Independence Way

PRINCETON, NJ 08543-5312

EXAMINER

NGUYEN, TRONG H

ART UNIT

PAPER NUMBER

2436

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/559,889	<b>Applicant(s)</b> ZHANG ET AL.	
	<b>Examiner</b> TRONG NGUYEN	<b>Art Unit</b> 2436	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1 and 3-14.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Nasser G Moazzami/  
Supervisory Patent Examiner, Art Unit 2436

/T N/  
Examiner, Art Unit 2436

Continuation of 11. In the Remarks/Arguments, filed 08/17/2009,

Applicants argue that:

- i. "Lewis fails to teach, show, or suggest 'generating a new encryption key at the access point' as defined in claim 1" (pages 5-6).
- ii. "Lewis fails to teach, show, or suggest 'setting a current encryption key and an old encryption key at an access point in the wireless network,' as defined in claim 1 and similarly in claim 8" (page 6).
- iii. "Jordan makes no mention of access points or any element that is analogous to an access point. As a result, Jordan cannot be interpreted as disclosing or suggesting generation of encryption keys at access points." Applicants further argue "Jordan, without a device that even resembles an access point, lacks any teaching, showing, or suggestion for 'setting a current encryption key and an old encryption key at an access point in the wireless network', or for 'generating a new encryption key and an old encryption key at an access point in the wireless network', or for 'indicating a decryption failure for a data frame received from the station when the encryption key used by the station does not match the current encryption key, wherein a data frame that failed to decrypt using the current encryption key is decrypted by said access point using the old encryption key,' all as defined in claim 1 and at least the first and last limitations similarly defined in claim 8."

In response to Applicants' arguments:

- i. The Examiner finds this argument persuasive. Therefore, the rejection of claim 1 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a different interpretation of Lewis. As pointed out by Applicants, Lewis discloses "The key distribution server 76 further includes an optional encryption key generator 150. In the exemplary embodiment, the generator 150 periodically generates a new ENCRYPT key which is provided to the access points 54 in order to be used in communicating with the mobile terminals 66" (col. 9, lines 41-47). Thus, Lewis's key distribution server generates encryption key(s) on behalf of the access point and from that perspective, the key distribution server and the access point can very well be viewed as one entity. Thus, it is obvious to and reasonable to expect one of ordinary skill in the art to view the combination of Lewis's key distribution server and the access point as an access point. Also see MPEP 2144.04 for Making Integral. Therefore, Lewis, under the new interpretation, discloses 'generating a new encryption key at the access point' as defined in claim 1.
- ii. The Examiner respectfully disagrees. Lewis clearly shows the access point using a current encryption key i.e. the ENCRYPT key (col. 6, line 46) and an old encryption key i.e. previous ENCRYPT key (col. 6, line 57) which means that the current encryption key or the ENCRYPT key is set to some value and the old encryption key or the previous ENCRYPT key is also set to some value. In addition, one can also reasonably view 'setting a current encryption key and an old encryption key at an access point in the wireless network,' as storing a current encryption key and an old encryption key at an access point in the wireless network.
- iii. The Examiner respectfully disagrees. Although Jordan does not specifically use the words "access point", Jordan does disclose a "method of dynamically synchronizing password keys in a secured wireless communication system" (par. 00111). Specifically, a messaging gateway or a wireless device can perform the synchronization (Fig. 10 and associated text). Thus, Jordan's method of password keys synchronization can be performed by any wireless device in the wireless communication system including the access point since it is reasonable to expect the wireless communication system to include at least one access point. Moreover, one of ordinary skill in the art can reasonably view the messaging gateway as an access point since the messaging gateway is an entrance and exit point for communications. Therefore, Jordan does disclose or at the very least make obvious the use of access point or an element that is analogous to an access point for the above reasons.